

REMARKS

Applicants respectfully request reconsideration of the instant application in the view of the foregoing amendments and the following remarks. Claims 1 and 3-22 are currently pending in the instant application, with Claims 1, 16, 20 and 22 being the only independent claims. By this Amendment, Applicants have amended claims 1, 16 and 20 and added new independent claim 22. Applicants submit that support for the amendments and new claim 22 may be found throughout the specification and originally-filed claims. Applicants submit that no new matter has been added by way of these Amendments.

August 5, 2005 Interview

Applicant's undersigned counsel wishes to thank the Examiner for the telephone interview we conducted on August 5, 2005. During the interview Applicant's counsel and the Examiner discussed the relevance of prior art U.S. Patent No. 1,794,384 ("Madsen") and various approaches for amending the pending claims to clarify the distinctions between the reference and Applicant's invention. Although, no resolution was reached, the discussion was helpful in clarifying the issues and we thank the Examiner for his participation.

Rejections under 35 U.S.C. § 102

Claims 1, 3-6, 9-11, 14-18 and 20 have been rejected under 35 U.S.C. § 102 as being anticipated by Madsen. Applicant submits that the pending claims, as amended, are patentable over Madsen. For example, Claim 1, as amended, requires an open position in which the "swivel is substantially outside of the opening" and a locked

position “in which the swivel is substantially inside the opening and a portion of the jewelry item attached to the toggle passes through the opening.” Madsen does not disclose a locked position as claimed by Claim 1. Madsen discloses a locked position in which a circular disc 16 is a size nearly equal to the annular ring 13 and therefore clamps the bar 18 in the locked position. (Madsen: page 1, lines 60-64 and 74-82). The bar, therefore, prohibits the circular disc 16 from being “substantially inside the opening.” Accordingly, Madsen does not anticipate amended claim 1.

Claim 16 similarly requires a closed position in which the protruding member is “substantially inside the opening... and a portion of the first end of the jewelry item passes through the opening.” As noted above, the structure disclosed by Madsen does not permit the circular disc 16 to be “substantially inside the opening” while simultaneously allowing a portion of the jewelry item to pass through the opening and, therefore, does not anticipate amended claim 16.

Claim 20 requires a method including “pivoting the swivel to a closed position in which the swivel is substantially within the opening and a portion of the item of jewelry extends through the opening.” Madsen does not disclose a structure that can perform this method because, as noted above, the circular disc 16 cannot be substantially within the opening while allowing a portion of the jewelry item to pass through the opening.”

Claims 3-6, 9-11, 14, 15, 17 and 18 all depend from either claim 1 or claim 16 and are not anticipated because they require the limitations of either claim 1 or claim 16 that, as shown above, are not present in Madsen.

Rejections under 35 U.S.C. § 103

Claims 7, 12 and 13 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Madsen in view of U.S. Published Patent Application 2004/0139586 ("Fox"). Claims 7, 12 and 13 all depend from claim 1. As noted above, Madsen fails to disclose all the limitations of claim 1, as amended, because it does not disclose a closed position in which "the swivel is substantially inside the opening and a portion of the jewelry item attached to the toggle passes through the opening." Fox does not disclose this limitation. Fox discloses cover plate 2, which as shown in Fig. 1 sits over the opening, rather than being substantially inside the opening. Accordingly, the combination of Madsen and Fox does not render claims 7, 12 and 13 obvious.

Claims 8, 19 and 21 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Madsen in view of U.S. Patent No. 5,410,784 ("Katz"). Katz was only applied by the Examiner to disclose the use of friction to secure a locking mechanism. Claims 8, 19 and 21 depend from claims 1, 16 and 20, respectively. As discussed above, claims 1, 16 and 20, as amended, distinguish over Madsen. Accordingly, the combination of Madsen and Katz does not render claims 8, 19 and 21 obvious because the combination of Madsen and Katz does not disclose the distinguishing limitations of claims 1, 16 and 20, discussed above.

Conclusion

For the reasons set forth above, Applicant respectfully requests the rejections of claims 1 and 3-21 be withdrawn and submits that each of the pending claims, as well as new independent claim 22, are in condition for allowance.

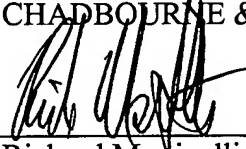
AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 03-1240, Order No. 17181.003.

In the event that an additional extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 03-1240, Order No. 17181.003.

Respectfully submitted,
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